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ORIGINAL

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November 30, 1999

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NOV 30 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation by the Association for Local Telecommunications Services

Application by Bell Atlantic-New York for Authorization to Provide In-Region InterLATA Services in New York -- CC Docket No. 99-295

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, the Association for Local Telecommunications Services ("ALTS"), by its attorneys, submits this notice of an oral *ex parte* presentation made, and written *ex parte* materials distributed, in the above-captioned proceeding on November 29, 1999. The *ex parte* presentation was made during a meeting with Commissioner Powell and Kyle Dixon of Commissioner Powell's office. The presentation was made by Jonathan Askin, Vice President, Law, of ALTS; Ross Buntrock of Kelley Drye & Warren LLP; Susan Jin Davis and Jason Oxman of Covad Communications; and Christy Kunin of Blumenfeld & Cohen on behalf of Rhythms NetConnections. Copies of the written materials distributed at the meeting are attached hereto.

During the presentations, the parties discussed their concerns regarding Bell Atlantic-New York's 271 application. Particularly, the parties indicated that Bell Atlantic has failed to demonstrate the ability to provision DSL capable loops and interconnection trunks in a timely fashion that allows for fair and open competition in the New York market.

DC01/BUNTR/97499.1

Pursuant to Sections 1.1206(b)(1) and (2), an original and two copies of this *ex parte* notification (with attachments) are provided for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Ross A. Buntrock

cc: Commissioner Powell
Kyle Dixon, Legal Advisor to Commissioner Powell
Dee May, Bell Atlantic
Jonathan Askin
International Transcription Service

ALTS

Ex Parte Presentation

Bell Atlantic-New York 271 Application

CC DOCKET NO. 99-295

November 29, 1999

Jonathan Askin, V.P.-Law, ALTS

202.969.2597 jaskin@alts.org

OVERVIEW

- BA-NY's ABILITY TO PROVISION LOOPS IS INADEQUATE
- DOJ FOUND ABILITY TO PERFORM HOT CUTS. PROVISION DSL CAPABLE LOOPS UNSATISFACTORY. NYPSC GAVE TEMPERED RECOMMENDATION
- ANTI BACKSLIDING PROTECTIONS. FRESH LOOK MUST ACCOMPANY ANY APPROVAL

LOOP PROBLEMS

- HOT CUTS
  - AGREE WITH DOJ THAT POOR HOT CUT PERFORMANCE HINDERS CLECs
  - TEN PERCENT OF HOT CUT ORDERS NOT ON TIME, PROCEDURES NOT FOLLOWED

LOOP PROBLEMS

- HOT CUTS (cont'd)
  - EARLY CUT-OVERS MAY RESULT IN SERVICE DISRUPTION
  - NYPSC AGREES THAT METRICS MUST BE ADJUSTED TO SHOW HOT CUT TROUBLES SPECIFICALLY
  - MODIFICATION OF METRIC TO SHOW DD-2 DIAL TONE CHECK "UPON ENTRY" INSUFFICIENT

LOOP PROBLEMS

- FIRM ORDER COMMITMENTS (FOCs)
  - BA-NY FOCs/LSRCs ARE PROVIDED LATE, INACCURATELY
  - DISAGGREGATED PERFORMANCE DATA PROVIDED TO DOJ SHOWED 30% OF FOCs/ORDER REJECTIONS PROVIDED LATE

LOOP PROBLEMS

- DSL CAPABLE LOOPS
  - BA-NY HAS NO EFFICIENT MEANS OF IDENTIFYING WHETHER A GIVEN LOOP IS DSL-CAPABLE
  - CHARGES FOR MANUAL SURVEY TOO COSTLY
  - MAJOR ORDERING. PROVISIONING ISSUES REMAIN
  - JUST OVER 1/2 OF DSL LOOP ORDERS ON TIME IN AUG. AND SEPT.

LOOP PROBLEMS

- DSL CAPABLE LOOPS (cont'd)
  - THE NYPSC RECOGNIZED THAT LOOP QUALIFICATION, PROVISIONING AND MAINTANENCE ISSUES, ALONG WITH PERFORMANCE METRICS ARE UNRESOLVED
  - BA-NY'S TARIFF RESTRICTS SERVICE OFFERINGS, IMPOSES DILATORY, NON-TELRIC NRC CHARGES

ANTIBACKSLIDING

- NYPSC RELYING HEAVILY ON BA-NY POST-ENTRY COMMITMENTS TO IMPROVE PERFORMANCE
  - HOT CUT PROCEDURES
  - PROVISIONING OF DSL LOOPS
  - PROVISION OF DARK FIBER TRANSPORT AND NEW UNEs SPACE
- BA-NY ALREADY CITING DIFFICULTY OF COMPLYING WITH UNE REMAND ORDER

ANTIBACKSLIDING (cont'd)

- ALTS SHARES DOJ's CONCERNS REGARDING THE "PAP"
  - PROCEDURES TOO CUMBERSOME
  - SANCTIONS TOO SMALL TO PROMOTE COMPLIANCE
  - COMPLICATED USE OF STATISTICS MASKS POOR PERFORMANCE

ANTIBACKSLIDING (cont'd)

- COMMISSION HAS AUTHORITY TO IMPLEMENT ANTIBACKSLIDING MEASURES
- SECTIONS 214(c), 251(d), 271(d)(6)(A), 303(r). 4(i) PROVIDE CLEAR AUTHORITY
- THREE-TIERED PENALTY SCHEME SHOULD BE IMPLEMENTED (REDUCED UNE RATES, SUSPENSION, MATERIAL FINES)

ANTIBACKSLIDING (cont'd)

- 271 ROCKET DOCKET COMPLAINT PROCESS SHOULD BE PROVIDED
- IF BOC FOUND BY COMMISSION TO BE AT FAULT FOR OUTAGE, BOC SHOULD BE REQUIRED TO NOTIFY CUSTOMER TO ALLEVIATE DAMAGE TO CLEC REPUTATION

FRESH LOOK

- FRESH LOOK OPPORTUNIES MUST ACCOMPANY ANY GRANT OF AUTHORITY
- EXCESSIVE TERMINATION PENALTIES WILL STIFLE COMPETITION
- CHANGED CIRCUMSTANCES CLEARLY WARRANT FRESH LOOK

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MUMBAI, INDIA
TOKYO, JAPAN

November 9, 1999

VIA COURIER

Mr. Anthony Dale
Federal Communications Commission
445 Twelfth Street, S.W.
Room 6-C43
Washington, D.C. 20554

Re: Application by Bell Atlantic-New York for Authorization to Provide In-Region InterLATA Services in New York
CC Docket 99-295

Written *Ex Parte* Presentation by e.spire Communications, Inc.

Dear Mr. Dale:

On behalf of e.spire Communications, Inc. ("e.spire"), and as per your request, I am writing to provide additional information to supplement an oral *ex parte* presentation made by e.spire on Tuesday, November, 2 1999. As you may recall, during that meeting, James C. Falvey, Vice President--Regulatory Affairs, and network engineer, Robert Girard, along with the undersigned, indicated that Bell Atlantic-New York ("Bell Atlantic") has consistently failed to provide interconnection trunks (and the circuits associated therewith) ordered by e.spire in New York in a timely fashion. Specifically, as e.spire indicated both in its initial comments in this proceeding[1] and in our meeting last week, Bell Atlantic's provisioning problems substantially delayed the turn-up of e.spire's New York switch, despite the fact that e.spire provided Bell Atlantic with an initial trunk plan, and attempted to work diligently with Bell Atlantic to turn up e.spire's switch within the time frame agreed upon by the companies.

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1 *See* Joint Comments of e.spire Communications, Inc. and Net2000 Communications Services, Inc. (Oct. 19, 1999) ("Comments").

As per your request at last week's meeting, attached are copies of the following: (1) Attachment 1—e.spire's initial interconnection trunk plan ("Initial Forecast") provided to Bell Atlantic on May 4, 1999, in preparation for e.spire's New York switch turn-up; (2) Attachment 2--e.spire's Summary of Year End 1999 Trunking Requirements ("October Forecast") provided to Bell Atlantic on October 6, 1999. Pursuant to its existing interconnection agreement with Bell Atlantic,[2] e.spire is obligated to provide to Bell Atlantic "yearly forecasted trunk forecasts." e.spire has indeed provided Bell Atlantic with yearly forecasts and updated them on a regular basis.

As e.spire's discussion with you last week highlighted, several documents which govern the Bell Atlantic/e.spire relationship address interconnection trunk forecasting requirements and trunk provisioning intervals, including the interconnection agreements between Bell Atlantic and e.spire, the P.S.C. 914 Tariff,[3] and the Bell Atlantic CLEC Handbook. From e.spire's perspective, the most critical documents governing the forecasting and provisioning requirements for interconnection trunks are its interconnection agreements with Bell Atlantic, which clearly contemplate negotiated interconnection trunk intervals. (e.spire had opted into the Telergy agreement from February 23 through August 10, 1999, and then opted into the MCI agreement from that date forward.) In addition, the 914 Tariff also contemplates a negotiated interval. Specifically, the 914 Tariff provides that a negotiated interval applies to the establishment of complex jobs requiring coordination, such as an initial switch turn up.[4]

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2 *See e.g.* Interconnection Agreement between Bell Atlantic-New York and e.spire, Sec. 4.1.1.1 (Aug. 10, 1999).

3 New York Telephone P.S.C. No. 914, Network Interconnection Services Regulations, Rates and Charges ("914 Tariff").

4 Sec. 3.3.3. of the 914 Tariff provides as follows: "The Telephone Company will negotiate with the CLEC to determine an appropriate interval for the following types of Service Orders:

-- Establishment of a new trunk group.

-- Complex jobs requiring coordination, such as large projects and trunk requests greater that 384. Complex jobs include, but are not limited to, routing changes, establishment of underlying DS3 facilities, NXX code movement or changes, traffic pattern changes, network consolidation, or grooming. Large projects include, but are not limited to, any order (new, augment or multiple) for more than 192 trunks (same or different trunk groups) between the same two locations which is requested during a 30 business day period.

-- Orders for trunks to a single or multiple location(s) when the underlying DS3 facilities are not established.

Nonetheless, in April 1999, e.spire's interconnection agreement with Bell Atlantic[5] contemplated negotiated intervals, as follows:

> In addition to meeting the Performance Standards in section 27.1, BA is striving to meet an interval objective of 18 days for all forecasted interconnection trunks, excluding only orders greater than 192 trunks and complex jobs, which will carry intervals of 30 business days or negotiated due dates, respectively, ***and initial deployment of new e.spire/BA interconnection trunk groups, which will be scheduled on a negotiated interval.*** E.spire shall provide forecasts semi-annually, with a minimum six months lead time before the requested in-service date.

e.spire and Bell Atlantic met on April 21, 1999, in New York City to cooperatively establish the interconnection trunking plans, and discuss all major issues surrounding the switch turn-up. On May 4, 1999, e.spire provided Bell Atlantic with its Initial Forecast for New York.[6] In light of the language in its interconnection agreement, e.spire and Bell Atlantic negotiated and agreed upon a July 2, 1999 trunking implementation date.[7] In reliance upon the validity of the negotiated date, e.spire built its sales staffing and business plan around it. Throughout the planning process, Bell Atlantic made commitments to e.spire that it would to meet the July 2, 1999 trunking deadline, and stated time and again that "if e.spire does not meet its deadlines it will not be the fault of Bell Atlantic." In other words, e.spire was given every assurance by Bell Atlantic that the interval to which Bell Atlantic had agreed (*i.e.* July 2, 1999) would be honored. As described in detail in e.spire's initial comments in this proceeding, Bell Atlantic's commitments to e.spire regarding delivery of interconnection trunks were not honored.[8] Instead, the provisioning interval negotiated by the parties was completely disregarded by Bell Atlantic.

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5 *See* Interconnection Agreement between Bell Atlantic-New York and e.spire, Sec. 4.7.2 (adopted February 23, 1999)(e.spire adopted the Interconnection Agreement between Bell Atlantic-New York and Telergy Network Services, Inc.).

6 *See* Attachment 1.

7 e.spire indicated in its initial Comments that the original switch implementation date was August 2, 1999. In fact, it was initially agreed that the trunks would be turned up by July 2, leaving time for a month of testing, and switch turn-up by August 2. However, it soon become clear that the July 2 deadline would not be met and the parties postponed the anticipated trunk turn-up date to August 2, 1999. Ultimately, on an extremely compressed schedule, the trunk turn-up took place on August 17, and the switch was not turned up until August 24.

8 *See* Comments at 16-19, "Event Summary 10/15/99."

Moreover, as more fully described in the attached letter, despite forecasts that date back to May of this year, Bell Atlantic has still proven to be completely unresponsive to e.spire's trunking demands in New York to meet e.spire's year-end requirements. Although Bell Atlantic is likely to point to a lack of e.spire forecasting as the source of its delays, this is simply not the case with e.spire. After providing Bell Atlantic with its Year End 1999 Trunking Requirements (Attachment 2, the October Forecast), which merely updated the original eighteen-month forecast provided in May 1999, e.spire held several meetings with Bell Atlantic in October 1999. Bell Atlantic has been unwilling to commit to any provisioning schedule for e.spire's trunk demand, despite the fact that e.spire's current interconnection agreement explicitly requires Bell Atlantic to meet e.spire's forecasted quantities. (*See* Letter from James Falvey to Pat Hanley, appended hereto as Attachment 3.)

Obviously, a lack of forecasts is not the issue hobbling Bell Atlantic's performance. Bell Atlantic – sometimes claiming "a lack of facilities" – has simply not demonstrated an ability to meet the competitive demand for interconnection trunks in compliance with the Act. e.spire submits that Bell Atlantic's application must be denied until such time as Bell Atlantic is able to demonstrate the ability to provide interconnection in the manner required by the Act.

While e.spire supports antibacksliding measures, including the imposition of penalties, performance penalties provide no remedy for a carrier that loses new customers and the accompanying hundreds of thousands of dollars in lost revenues.[9] e.spire's entry into the New York market has been and is being delayed by Bell Atlantic. Consequently, e.spire's recovery of its network investment in the State of New York is likewise being delayed.

---

[9] In a mature e.spire market, the monthly revenue from reciprocal compensation alone can be well over $300,000, not to mention substantial revenue from e.spire's integrated product offereings. As long as Bell Atlantic is permitted to slow-roll interconnection trunk deployment, it will continue to profit by permitting such delays to take place.

In the meeting on November 2, e.spire also discussed two issues in addition to interconnection trunking delays. First, e.spire discussed the need to ensure that loop/transport combinations, or "EELs", are implemented on a timely and nondiscriminatory basis. Second, e.spire expressed concern that it has just billed Bell Atlantic for reciprocal compensation for the first time in New York, and it remains to be seen whether Bell Atlantic will make payment on those invoices.

If you have any questions with regard to this letter or the attached materials, please do not hesitate to contact me at 202/887-1248. In addition, please feel free to contact Jim Falvey at 301/617-4298. Thank you for your time and consideration. Notice of this written *ex parte* presentation will be filed today with the Commission Secretary.

Respectfully submitted,

Ross Buntrock CSR

Ross A. Buntrock

Attachments

cc: FCC Staff at oral *ex parte*
James C. Falvey
Robert Girard
Dee May, Bell Atlantic
Magalie Salas (2 copies)

Attachment 1

INITIAL FORECAST

Bell Atlantic
Telecom Industry Services

CLEC and Wireless Interconnection Trunk Forecast

(Local Access Groups)

Attachment #1

Carrier Name :	e.spire Communications	Forecast Issue Date:	4/20/99
Issued By:	Barbara Jordan	Reach Number:	703-386-2222

LATA: 132

ACTL / POI	TSC	BELL ATLANTIC SWITCH CLLI	TO	DS	Carrier SWITCH CLLI	INTERFACE TYPE	56 KB or 64 Clear Channel	CURRENT YEAR TRUNK REQUIREMENTS Year 1999				
								Trks In-Svc as of Fcst Issue Date	1Q FCST	2Q FCST	3Q FCST	4Q FCST
Garden City (tbd)	tbd	DRPKNYDP03T	E	-7	NYCENYCPDC0	DS1	64	0	0	0	480	96
E37th (tbd)	tbd	NYCKNYWM24T	E	-7	NYCENYCPDC0	DS1	64	0	0	480	96	48
E37th (tbd)	tbd	NYCMNY3723T	E	-7	NYCENYCPDC0	DS1	64	0	0	480	96	48
E37th (tbd)	tbd	NYCMNY1306T	E	-7	NYCENYCPDC0	DS1	64	0	0	480	96	48
White Plains (tbd)	tbd	WHPLNYWP06T	E	-7	NYCENYCPDC0	DS1	64	0	0	480	96	48
E37th (tbd)	tbd	NYCKNYWM12T	E	-7	NYCENYCPDC0	DS1	64	0	0	24	0	0
E37th (tbd)	tbd	NYCMNY3706T	E	-7	NYCENYCPDC0	DS1	64	0	0	24	0	0
Garden City (tbd)	tbd	DRPKNYDP03T	BA	7-	NYCENYCPDC0	DS1	64	0	0	0	240	72
E37th (tbd)	tbd	NYCKNYWM24T	BA	7-	NYCENYCPDC0	DS1	64	0	0	240	72	48
E37th (tbd)	tbd	NYCMNY3723T	BA	7-	NYCENYCPDC0	DS1	64	0	0	240	72	120
E37th (tbd)	tbd	NYCMNY1306T	BA	7-	NYCENYCPDC0	DS1	64	0	0	240	72	48
White Plains (tbd)	tbd	WHPLNYWP06T	BA	7-	NYCENYCPDC0	DS1	64	0	0	240	72	48
Garden City (tbd)	tbd	BRWDNYBW01T	BA	7-	NYCENYCPDC0	DS1	64	0	0	240	48	48
Garden City (tbd)	tbd	GRCYNYGC02T	BA	7-	NYCENYCPDC0	DS1	64	0	0	240	48	48
E37th (tbd)	tbd	NYCMNY3706T	2W	77	NYCENYCPDC0	DS1	64	0	0	144	48	24
E37th (tbd)	tbd	NYCKNYWM12T	2W	77	NYCENYCPDC0	DS1	64	0	0	96	48	24
White Plains (tbd)	tbd	WHPLNYWP06T	2W	77	NYCENYCPDC0	DS1	64	0	0	96	48	24
E37th (tbd)	tbd	NYCMNYBW21T	2W	77	NYCENYCPDC0	DS1	64	0	0	24	0	0

Bell Atlantic
Telecom Industry Services

CLEC and Wireless Interconnection Trunk Forecast

(Local Access Groups)

Attachment #1

Carrier Name :	e.spire Communications	Forecast Issue Date:	4/20/99
Issued By:	Barbara Jordan	Reach Number:	703-386-2222

LATA: 132

ACTL / POI	TSC	BELL ATLANTIC SWITCH CLLI	TO	DS	Carrier SWITCH CLLI	INTERFACE TYPE	56 KB or 64 Clear Channel	TRUNK FORECAST REQUIREMENTS Year 2000 1Q	2Q	3Q	4Q
Garden City (tbd)	tbd	DRPKNYDP03T	E	-7	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCKNYWM24T	E	-7	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCMNY3723T	E	-7	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCMNY1306T	E	-7	NYCENYCPDC0	DS1	64	96	48	48	48
White Plains (tbd)	tbd	WHPLNYWP06T	E	-7	NYCENYCPDC0	DS1	64	96	48	48	48
E37th (tbd)	tbd	NYCKNYWM12T	E	-7	NYCENYCPDC0	DS1	64	0	0	0	0
E37th (tbd)	tbd	NYCMNY3706T	E	-7	NYCENYCPDC0	DS1	64	0	0	0	0
Garden City (tbd)	tbd	DRPKNYDP03T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCKNYWM24T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCMNY3723T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCMNY1306T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
White Plains (tbd)	tbd	WHPLNYWP06T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
Garden City (tbd)	tbd	BRWDNYBW01T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
Garden City (tbd)	tbd	GRCYNYGC02T	BA	7-	NYCENYCPDC0	DS1	64	48	48	48	48
E37th (tbd)	tbd	NYCMNY3706T	2W	77	NYCENYCPDC0	DS1	64	48	24	24	24
E37th (tbd)	tbd	NYCKNYWM12T	2W	77	NYCENYCPDC0	DS1	64	48	24	24	24
White Plains (tbd)	tbd	WHPLNYWP06T	2W	77	NYCENYCPDC0	DS1	64	48	24	24	24
E37th (tbd)	tbd	NYCMNYBW21T	2W	77	NYCENYCPDC0	DS1	64	0	0	0	0

Bell Atlantic
Telecom Industry Services

CLEC and Wireless Interconnection Trunk Forecast

(Local Access Groups)

Attachment #1

Carrier Name :	e.spire Communications	Forecast Issue Date:	4/20/99
Issued By:	Barbara Jordan	Reach Number:	703-386-2222

LATA: 132

ACTL / POI	TSC	BELL ATLANTIC SWITCH CLLI	TO	DS	Carrier SWITCH CLLI	INTERFACE TYPE	56 KB or 64 Clear Channel	TRUNK FORECAST REQUIREMENTS Totals (Combined 1999 & 2000)
Garden City (tbd)	tbd	DRPKNYDP03T	E	-7	NYCENYCPDC0	DS1	64	768
E37th (tbd)	tbd	NYCKNYWM24T	E	-7	NYCENYCPDC0	DS1	64	816
E37th (tbd)	tbd	NYCMNY3723T	E	-7	NYCENYCPDC0	DS1	64	816
E37th (tbd)	tbd	NYCMNY1306T	E	-7	NYCENYCPDC0	DS1	64	864
White Plains (tbd)	tbd	WHPLNYWP06T	E	-7	NYCENYCPDC0	DS1	64	864
E37th (tbd)	tbd	NYCKNYWM12T	E	-7	NYCENYCPDC0	DS1	64	24
E37th (tbd)	tbd	NYCMNY3706T	E	-7	NYCENYCPDC0	DS1	64	24
Garden City (tbd)	tbd	DRPKNYDP03T	BA	7-	NYCENYCPDC0	DS1	64	504
E37th (tbd)	tbd	NYCKNYWM24T	BA	7-	NYCENYCPDC0	DS1	64	552
E37th (tbd)	tbd	NYCMNY3723T	BA	7-	NYCENYCPDC0	DS1	64	624
E37th (tbd)	tbd	NYCMNY1306T	BA	7-	NYCENYCPDC0	DS1	64	552
White Plains (tbd)	tbd	WHPLNYWP06T	BA	7-	NYCENYCPDC0	DS1	64	552
Garden City (tbd)	tbd	BRWDNYBW01T	BA	7-	NYCENYCPDC0	DS1	64	528
Garden City (tbd)	tbd	GRCYNYGC02T	BA	7-	NYCENYCPDC0	DS1	64	528
E37th (tbd)	tbd	NYCMNY3706T	2W	77	NYCENYCPDC0	DS1	64	336
E37th (tbd)	tbd	NYCKNYWM12T	2W	77	NYCENYCPDC0	DS1	64	288
White Plains (tbd)	tbd	WHPLNYWP06T	2W	77	NYCENYCPDC0	DS1	64	288
E37th (tbd)	tbd	NYCMNYBW21T	2W	77	NYCENYCPDC0	DS1	64	24

Bell Atlantic
Telecom Industry Services

CLEC and Wireless Interconnection Trunk Forecast

(Local Access Groups)

Attachment #1

Carrier Name :	e.spire Communications	Forecast Issue Date:	4/20/99
Issued By:	Barbara Jordan	Reach Number:	703-386-2222

LATA: 132

ACTL / POI	TSC	BELL ATLANTIC SWITCH CLLI	TO	DS	Carrier SWITCH CLLI	INTERFACE TYPE	56 KB or 64 Clear Channel	REMARKS
Garden City (tbd)	tbd	DRPKNYDP03T	E	-7	NYCENYCPDC0	DS1	64	local - NPA 516, not available until 9/1 (bell to e.spire)
E37th (tbd)	tbd	NYCKNYWM24T	E	-7	NYCENYCPDC0	DS1	64	local - NPA 718, 347 (bell to e.spire)
E37th (tbd)	tbd	NYCMNY3723T	E	-7	NYCENYCPDC0	DS1	64	local - NPA 212, 646 (bell to e.spire)
E37th (tbd)	tbd	NYCMNY1306T	E	-7	NYCENYCPDC0	DS1	64	local - NPA 917 (bell to e.spire)
White Plains (tbd)	tbd	WHPLNYWP06T	E	-7	NYCENYCPDC0	DS1	64	local - NPA 914 (bell to e.spire)
E37th (tbd)	tbd	NYCKNYWM12T	E	-7	NYCENYCPDC0	DS1	64	local - 718 miscellaneous traffic (bell to e.spire)
E37th (tbd)	tbd	NYCMNY3706T	E	-7	NYCENYCPDC0	DS1	64	local - 212 & 917 miscellaneous traffic (bell to e.spire)
Garden City (tbd)	tbd	DRPKNYDP03T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 516, not available until 9/1 (e.spire to bell)
E37th (tbd)	tbd	NYCKNYWM24T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 718, 347 (e.spire to bell)
E37th (tbd)	tbd	NYCMNY3723T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 212, 646 (e.spire to bell)
E37th (tbd)	tbd	NYCMNY1306T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 917 (e.spire to bell)
White Plains (tbd)	tbd	WHPLNYWP06T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 914 (e.spire to bell)
Garden City (tbd)	tbd	BRWDNYBW01T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 516
Garden City (tbd)	tbd	GRCYNYGC02T	BA	7-	NYCENYCPDC0	DS1	64	local - NPA 516
E37th (tbd)	tbd	NYCMNY3706T	2W	77	NYCENYCPDC0	DS1	64	IXC - NPA 212, 646
E37th (tbd)	tbd	NYCKNYWM12T	2W	77	NYCENYCPDC0	DS1	64	IXC - NPA 718, 347
White Plains (tbd)	tbd	WHPLNYWP06T	2W	77	NYCENYCPDC0	DS1	64	IXC - NPA 914
E37th (tbd)	tbd	NYCMNYBW21T	2W	77	NYCENYCPDC0	DS1	64	IXC - NPA 917

Attachment 2

OCTOBER FORECAST

e.spire Communications, Inc.
Summary of YE1999 Trunking Requirements
New York Switch

e.spire Switch CLLI Code: NYCENYCPDC1
e.spire Switch Point Code: 005-084-060

A	B	D	E	F	G	H	I	J	K	L	M				
e.spire Trunk Group Num	CLLI Code	TSC	T1 Quantity In Service at Plan Inception	Pending Install T1 Quantity	Phase I Plan	Phase I Ordered	Phase I Short Fall	Phase II Plan	Phase III Plan	Total YE1999 Plan Quantity	YE1999 Additional T1 Requirement Quantity	Trunk Priority	Confirmed T1 Trunk Qty	Bell Atlantic ASR Date	Bell Atlantic Projected Install Date
110	DRPKNYDP03T	AN294793	10	0	0	0	0	0	12	12	12				
111	NYCKNYWM24T	AN293865	10	0	0	0	0	0	12	12	12				
112	NYCMNY3723T	AN293841	10	0	0	0	0	0	12	12	12				
113	NYCMNY1306T	AN293959	10	0	0	0	0	0	12	12	12				
114	WHPLNYWP06T	AN294331	10	0	0	0	0	0	12	12	12				
115	BRWDNYBW01T	AN294355	10	0	0	0	0	0	12	12	12				
116	GRCYNYGC02T	AN294781	10	0	0	0	0	0	12	12	12				
201	NYCMNY3706T	AN293777	6	0	0	0	0	0	56	56	56				
202	NYCKNYWM12T	AN294057	2	0	0	0	2	0	0	2	2				
203	WHPLNYWP06T	AN294332	4	0	0	0	0	0	0	0	0				
204	NYCMNYBW21T	AN293786	1	0	0	0	0	0	0	0	0				
205	NYCKNYWM12T	TBD	3	0	0	0	1	0	0	1	1				
310	DRPKNYDP03T	TBD	0	0	0	0	20	0	8	28	28				
311	NYCKNYWM24T	AN293850	25	0	0	0	0	0	31	31	31				
312	NYCMNY3723T	AN293847	25	0	0	0	0	0	31	31	31				
313	NYCMNY1306T	AN294388	3	0	0	0	0	0	30	30	30				
314	WHPLNYWP06T	AN294351	20	0	0	0	0	0	8	8	8				
315	NYCKNYWM12T	TBD	0	0	0	0	1	0	4	5	5				
316	NYCMNY3706T	TBD	0	0	0	0	1	0	4	5	5				
317	GRCYNYGC02T	AN295110	0	0	0	0	0	0	0	0	0				
318	BRWDNYBW01T	AN294962	0	0	0	0	0	0	0	0	0				
401	NYCMNYPSDS1	AN294185	4	0	0	0	0	0	14	14	14				
402	NYCMNY56DS0	AN294432	4	0	0	0	0	0	14	14	14				
403	NYCMNY3706N	TBD	0	0	0	0	0	0	14	14	14				
404	NYCMNY37DS1	AN294413	4	0	0	0	0	0	14	14	14				
405	WHPLNYWP06N	TBD	0	0	0	0	0	0	14	14	14				
406	NYCKNYWM12N	TBD	0	0	0	0	0	0	14	14	14				
407	NYCMNY50DS1	AN294431	4	0	0	0	0	0	14	14	14				
408	NYCMNYWSDS2	AN294202	4	0	0	0	0	0	14	14	14				
409	NYCQNYLNDS1	AN294109	4	0	0	0	0	0	14	14	14				
410	NYCMNY37DS0	AN294425	3	0	0	0	1	0	14	15	15				
411	WHPLNYWPDS0	AN294340	4	0	0	0	0	0	14	14	14				
412	NYCMNY36DS1	AN295416	4	0	0	0	0	0	14	14	14				
413	NYCMNY42DS1	AN294573	2	0	0	0	2	0	14	16	16				
414	NYCMNY50DS0	AN294430	3	0	0	0	1	0	14	15	15				
415	NYCMNY56DS2	AN294435	2	0	0	0	2	0	14	16	16				
416	GRCYNYGCDS0	AN294353	4	0	0	0	0	0	14	14	14				
417	NYCMNYMNDS0	AN294151	0	0	0	0	4	0	14	18	18				
418	NYCMNY13DS0	AN294575	3	0	0	0	1	0	14	15	15				

e.spire Communications, Inc.
Summary of YE1999 Trunking Requirements
New York Switch

e.spire Switch CLLI Code: NYCENYCPDC1
e.spire Switch Point Code: 005-084-060

A	B	D	E	F	G	H	I	J	K	L	M				
e.spire Trunk Group Num	CLLI Code	TSC	T1 Quantity In Service at Plan Inception	Pending Install T1 Quantity	Phase I Plan	Phase I Ordered	Phase I Short Fall	Phase II Plan	Phase III Plan	Total YE1999 Plan Quantity	YE1999 Additional T1 Requirement Quantity	Trunk Priority	Confirmed T1 Trunk Qty	Bell Atlantic ASR Date	Bell Atlantic Projected Install Date
419	NYCMNY18DS0	AN294574	3	0	0	0	1	0	14	15	15				
420	NYCMNY42DS0	AN294572	3	0	0	0	1	0	14	15	15				
421	NYCMNYBSDS2	AN294186	4	0	0	0	0	0	14	14	14				
422	NYCMNYWSDS0	AN294184	4	0	0	0	0	0	14	14	14				
		Total:	222	0	0	0	38	0	564	602	602				

Farid Ahmed on 8/26/99
Revised by Gwong on 10/5/99 to reflect actual in-service and Phase I short-fall quantities
based on R. Girard input. Also, adjusted TG-201 by 2 DS-3 to reflect customer requirement w/800 application.

A= Qty. from Barbara Jordan's NY Plan
B= TSR/Column-Far End CLLI
D= TSR/Column-26Code
E= TSR/Column-Members In Service
F= TSR/Column- Quantity On Order

G = Emergency Trunking Plan Status Report
H = Phase I (Planned - Ordered)
I = Phase II Plan
J = Phase III Plan
K = F + I + J (Phase I, II, and III total)
L = K - G (Total Planned - Ordered)

*- New Office

Attachment 3

November 8, 1999

Mr. Pat Hanley
President, Bell Atlantic TIS/Carrier Services
Bell Atlantic
2980 Fairview Park Drive
Falls Church, VA 22402

Dear Pat:

This is to express e.spire's dissatisfaction with Bell Atlantic's inability to meet e.spire's core interconnection trunking requirements in the New York City metro area. To date, Bell Atlantic has consistently under-delivered on e.spire's customer requirements. If e.spire is to succeed in these critical markets, Bell Atlantic must dedicate additional resources to ensure that it can meet e.spire's requirements, as specified by e.spire's interconnection agreements.

e.spire has substantial initial customer demands in New York. If Bell Atlantic restricts the delivery of interconnection trunks to e.spire, Bell Atlantic will substantially decrease e.spire's revenues in these markets. In addition, customers that have signed up for e.spire service may be forced to seek out an alternative provider, which likely would be Bell Atlantic.

Although the same issue is prevalent elsewhere, this letter is specifically directed to our interconnection problems in the New York City metro area. In New York, e.spire sent its trunk plan and forecast to Bell Atlantic on May 4, 1999. Since that time, that forecast has been regularly updated on June 3, June 24, and October 6. For the initial e.spire trunking to support its new Lucent 5ESS switch in New York, Bell Atlantic was unable to meet the negotiated deadlines that it committed to meet. e.spire and Bell Atlantic agreed upon the negotiated date of August 2 to complete all testing for the e.spire switch to be in service. Bell Atlantic executives committed to e.spire executives that, if e.spire did not make that date, it would not be because of Bell Atlantic delays.

In fact, Bell Atlantic did substantially delay, thereby causing e.spire to delay activating its switch as planned. In order to turn up the switch by August 2, e.spire had to have its interconnection trunking completed several weeks in advance of that date to allow time for testing. Due to extensive Bell Atlantic delays on delivery of DS-3s and interconnection trunks, e.spire did not turn up its switch until August 27, almost a full month after the initial date.

The situation with interconnection trunks in New York has since further deteriorated. Despite the fact that e.spire's initial forecast is now over six (6) months old,

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Bell Atlantic has not been willing to make any commitment whatsoever that Bell Atlantic will meet e.spire's requirements in New York. e.spire and Bell Atlantic have met regularly to discuss this issue but, remarkably, no commitment has been forthcoming from Bell Atlantic. It is becoming increasingly apparent that Bell Atlantic has been and will continue to be seriously delinquent in meeting e.spire's requirements.

Sections 4.1.2 and 4.1.2.1 of e.spire's New York interconnection agreement address this issue directly:

> The Parties shall meet to review their forecasts on a scheduled basis and work cooperatively to reconcile their forecasts if these forecasts vary significantly, either with each other or from period to period.
>
> If the Parties are unable to reach such a reconciliation, the Local Interconnection Trunk Groups shall be ***provisioned to the quantities specified in the higher of the two (2) forecasts***. (emphasis added)

Although e.spire has not received a formal forecast from Bell Atlantic, we have received indications that Bell Atlantic is not willing to meet e.spire's requirements. The contract is clear in this regard: Bell Atlantic must provision to ***e.spire's higher forecast*** and meet e.spire's customer demand.

Bell Atlantic has not provided valid justification for its failure to abide by the terms of the Interconnection Agreement. Statements have been made by Bell Atlantic that e.spire will not utilize the full capacity of the interconnection trunks once they have been provisioned. Again, precisely this issue has been anticipated by Section 4.1.2.1 of the Agreement, and a process to resize the trunks is detailed in the Agreement. Moreover, e.spire's experience in Maryland amply demonstrates that, not only has e.spire always utilized the full capacity it has ordered, but it has constantly been under-serviced by Bell Atlantic and has repeatedly experienced trunk blockage. Moreover, e.spire's experience in 25 markets across the country, has been that insufficient capacity – and not too much capacity – has been the issue.

Nor can Bell Atlantic claim that e.spire has not provided adequate forecasts. e.spire's forecasts are over six months old, have been regularly updated, and have been in a format to which Bell Atlantic has never objected. As to the response that Bell Atlantic has insufficient facilities, e.spire has provided forecasts, so only Bell Atlantic is to blame if it does not have sufficient facilities. Accordingly, Bell Atlantic is contractually committed to meet the trunking requirements as described by e.spire.

If Bell Atlantic continues to deny or delay e.spire facilities, e.spire will be severely restricted in the amount of business it can conduct in New York. e.spire's loss of business, including substantial reciprocal compensation,[1] will be directly attributable

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[1] Although reciprocal compensation only represents a small percentage of e.spire's revenues, monthly recurring revenue from reciprocal compensation alone in a mature market amounts to hundreds of thousands of dollars.

to an inadequate amount of capacity over Bell Atlantic trunk groups. e.spire has already raised this issue in Bell Atlantic's filing at the Federal Communications Commission (FCC) to enter the New York long distance market (CC Docket No. 99-295). The Department of Justice has focused additional attention on this issue. DOJ Comments, p. 10, fn. 20.

e.spire's primary goal is to ensure that it has sufficient trunking capacity to meet its customers' needs and to grow its business. If e.spire's trunking needs are met in New York, e.spire has no interest in further pursuing issues in CC Docket No. 99-295 or other fora concerning the current backlog. However, if e.spire's year-end targets are to be met, e.spire requires a response no later than Monday, November 15 as to how Bell Atlantic intends to comply with its contractual commitments.

e.spire looks forward to working cooperatively with Bell Atlantic in New York. e.spire would be interested in meeting to discuss revised Bell Atlantic commitments that meet e.spire's requirements with respect to interconnection trunking at your earliest convenience. Please do not hesitate to contact me at (301) 361-4298 to arrange such a meeting.

Sincerely,

James C. Falvey
Vice President – Regulatory Affairs

cc: Riley M. Murphy, Esq.
Dennis Kern
Brad Mutschelknaus, Esq.